

DEPARTMENT OF STATE REVENUE

01-20182123R.MOD

**Memorandum of Decision: 01-20182123R
Individual Income Tax
For the Tax Year 2015**

NOTICE: IC § 4-22-7-7 permits the publication of this document in the Indiana Register. The publication of this document provides the general public with information about the Indiana Department of Revenue's official position concerning a specific set of facts and issues. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Memorandum of Decision.

HOLDING

Individual provided documentation supporting her position that she paid excess Indiana income tax. Therefore, Individual's claim for refund was sustained.

ISSUE

I. Income Tax-Federal Discrepancy Assessment.

Authority: IC § 6-8.1-9-1; IC § 6-3-2-2; IC § 6-3-2-1; IC § 6-3-1-3.5; *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014).

Taxpayer protests the imposition of Indiana individual income tax for tax year 2015.

STATEMENT OF FACTS

Taxpayer is an Indiana resident. Taxpayer filed her 2015 Indiana tax return on April 15, 2016. On April 14, 2018, Taxpayer filed an amended 2015 Indiana income tax return, claiming a refund. The Indiana Department of Revenue ("Department") denied the refund on the basis that Taxpayer had failed to provide documentation from the Internal Revenue Service ("IRS") verifying that her Federal AGI had changed. Taxpayer protests the denial of refund. An administrative hearing was held and this Memorandum of Decision results. Additional facts will be provided as necessary.

I. Income Tax- Federal Discrepancy Assessment.

DISCUSSION

Taxpayer claims that the income stated on her 2015 income tax return was incorrect. Part of her income had been "double counted" on her federal income tax return, erroneously increasing the amount of taxable income in Indiana. Subsequently, her 2015 Federal Adjusted Gross Income ("AGI") was amended and she was granted a refund for part of her federal income tax. Taxpayer then filed an amended Indiana income tax return. Upon filing her amended return, Taxpayer asked for a refund from the Department of the excess previously remitted. The Department denied this request for refund since the Department requires that Taxpayer provide information from the IRS verifying the change in taxable income.

The Department notes that, "[W]hen [courts] examine a statute that an agency is 'charged with enforcing. . .[courts] defer to the agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation by another party.'" *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014). Thus, all interpretations of Indiana tax law contained within this decision shall be entitled to deference.

IC § 6-8.1-9-1(a) states:

If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department. Except as provided in subsections (f) and (g), in order to obtain the refund, the person must file the claim with the department within three (3) years after the latter of the following:

- (1) The due date of the return.
- (2) The date of payment.

For purposes of this section, the due date for a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance tax is the

end of the calendar year which contains the taxable period for which the return is filed. The claim must set forth the amount of the refund to which the person is entitled and the reasons that the person is entitled to the refund.

Indiana imposes an adjusted gross income tax on all residents. IC § 6-3-2-1(a). A taxpayer's Indiana income is determined by starting with the federal adjusted gross income and making certain adjustments. IC § 6-3-1-3.5(a). IC § 6-3-2-2(a) specifically outlines what is income derived from Indiana sources and subject to Indiana income tax. For Indiana income tax purposes, the presumption is that taxpayers properly and correctly file their federal income tax returns as required pursuant to the Internal Revenue Code. Thus, to efficiently and effectively compute what is considered the taxpayer's Indiana income tax, the Indiana statute refers to the Internal Revenue Code. IC § 6-3-1-3.5(a) provides the starting point to determine the taxpayer's taxable income and to calculate what would be their Indiana income tax after applying certain additions and subtractions to that starting point.

In order to verify Taxpayer's change in income for the taxable year of 2015, the Department requested a Federal Account Transcript from the Taxpayer. In the course of the protest process, Taxpayer has now provided this information. After review and verification of Taxpayer's adjusted gross income, the Department agrees that Taxpayer is entitled to the claimed refund.

FINDING

Taxpayer's protest is sustained.

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